

## **REMARKS**

Claims 1-28 constitute the pending claims in the present application.

The specification has been amended to correct errors that are typographical in nature. In particular, "lead solenoid" has been replaced by "lead selenide," and an equation has been clarified by adding parentheses. No new matter has been added.

Claims 1, 5-7 and 10 have been amended. Claims 2-4 have been cancelled. These claims have been cancelled so that the other claims may be allowed and a patent may issue. Cancellation of these claims should in no way be construed as an acquiescence or surrender of any subject matter. Applicant reserves the option to prosecute further the originally filed claims or similar ones, in the instant or a subsequent patent application.

Further, silence with regard to any of the Examiner's rejections is not an acquiescence to such rejections. Specifically, silence with regard to Examiner's rejection of a dependent claim, when such claim depends from an independent claim that Applicant considers allowable for reasons provided herein, is not an acquiescence to such rejection of the dependent claim(s), but rather a recognition by Applicant that such previously lodged rejection is moot based on Applicant remarks and/or amendments relative to the independent claim (that Applicant considers allowable) from which the dependent claim(s) depends.

### **Rejection under 35 U. S. C. 102(b)**

Claims 1-28 stand rejected under 35 U.S.C. 102(b) as being anticipated by Tipton et al. (US Patent No. 5,652,810).

Claim 1 has been amended to include the subject matter of cancelled claims 2-4. Claims 2-4 have been canceled. Tipton et al. does not disclose or suggest a probe head that includes a reflector that includes both a first reflective surface for reflecting light from the light source through a wall of a shaft and into the sample volume, and a second reflective surface for reflecting light emitted from the sample to the optical pick-up.

Claims 5-7 and 10 have been amended solely to make them depend on claim 1 instead of now cancelled claim 4. Claims 5-10 depend from amended independent claim 1. Applicants consider these dependent claims to be allowable at least by way of their dependency from independent claim 1.

Tipton et al. does not disclose or suggest a probe head that includes a reflector that reflects at least a portion of the light from the light source in a direction generally *perpendicular* to a longitudinal axis of the shaft, as recited in claim 11. Rather, Tipton et al. discloses a reflector with only one surface, disposed at an angle of about 25°. (Tipton et al., column 3, lines 42-47.) Claims 12-17 depend on independent claim 11. Applicant considers these dependent claims to be allowable at least by way of their dependency from independent claim 11.

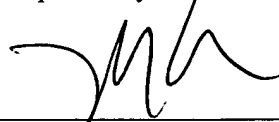
Nor does Tipton et al. disclose or suggest a method of analyzing a material that includes a probe head emitting light at least generally perpendicular to an insertion axis, as recited in claim 18. Tipton et al., discloses only a probe with a vertical insertion axis emitting light that is about 25° from the vertical insertion axis. (Tipton et al. Figure, and column 3, lines 42-47.) Further, Tipton et al. fails to disclose or suggest a planing element shaped to cause the probe head to skim the surface of a flowing material, as recited in claim 19 and dependent claims thereon. Finally, Tipton et al. fails to disclose or suggest a probe assembly that includes two or more probe heads, as recited in claim 23 and the claims that depend on it.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of these rejections.

### **CONCLUSION**

In view of the foregoing remarks, Applicant submits that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-832-1000. Should a further extension of time be required other than provided for, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this application be charged to Deposit Account, **No. 06-1448**.

Respectfully Submitted,



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